2630.

SUPREME COURT OF THE UNITED STATES.

No. 277.

THE UNITED STATES, APPELLANTS,

vs.

JOSEPH HUGHES.

APPEAL FROM THE DISTRICT COURT, U. S., FOR LOUISIANA.

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[GIDEON & CO., PRINT.]

Eastern district of Louisiana, United States district court.

Be it remembered that heretofore, to wit, on the 16th day of June, 1846, being at the May term of said court, Joseph Hughes, by his solicitor, E. Stevens, esq., came into the office of the clerk of said court, and filed his petition, which is in the words and figures following:

JOSEPH HUGHES, vs. The UNITED STATES. } No. 48.

In chancery.

To the honorable district court of the United States, in and for the district of Louisiana.

The petition of Joseph Hughes, of the parish of St. Landry, in the State of Louisiana, with respect represents, that on the 26th day of April, 1798, Manuel Gayoso de Lemos, then governor of the province of Louisiana, did grant to André Martin, then an inhabitant of the post of Attakapas, on his petition, a certain tract of land to contain thirty-two hundred arpents, situate and fronting on the back part of the lands of Olivier Thibodeaux, Théodore Thibodeaux, and Claude Martin, and that the said André Martin took immediate possession thereof, and held said possession until his death, which happened in the year.

Your petitioner further represents, that this claim was presented to a board of commissioners at Opelousas, duly authorized to report on such claims, and that in the year 1840 the said board of commissioners did report favorably on the said claim, and recommended it to Congress for confirmation, and that Congress never took any final action thereon; and that the requette or petition, and grant, &c., are still in the possession of the Government of the United States, and that your petitioner can only procure certified copies thereof, which he prays may be filed in this suit, and be made a part of this petition for reference; your petitioner further represents, that to his knowledge no one resides on the said tract of land, except those who hold under your petitioner; and your petitioner further represents, that he will produce good and legal sales and transfers of the said tract of land, from the heirs of the said André Martin, your petitioner, on the trial.

Your petitioner further represents, that under the provisions of an act of Congress, approved on the 17th June, 1844, which did revive and extend to Louisiana, and to other States, an act of Congress, approved on the 26th May, 1824, entitled, "an act to enable claimants to lands within the State of Missouri and Territory of Arkansas, to institute proceedings to try the validity of their claims," the benefit of which acts of Congress your petitioner now claims.'

The premises considered, your petitioner prays leave to file this his

petition, that a copy thereof be served on the district attorney of the United States, for this district; and after proper proceedings, that it may be adjudged and decreed by this honorable court, that the title of your petitioner is good and valid against the United States to so much of the said tract of land, as may appear by certificate from the proper authority, not to have been sold or otherwise disposed of by the United States, and the right to locate an equal quantity elsewhere according to law, for so much thereof as shall appear to have been disposed of by the United States.

Your petitioner prays for all such other and further relief as justice, equity, and the nature of the case may require; and as in duty bound, &c.

(Signed) E. STEVENS,
Att'y for Petitioner.

And further, at the same term, to wit, on the 18th day of November, A. D. 1846, the following demurrer was filed of record in the office of the clerk of said court:

JOSEPH HUGHES vs. THE UNITED STATES. } No. 48.

In the district court of the United States, for the district of Louisiana.

The demurrer of the United States, defendant, to the petition of Joseph Hughes.

The defendant, not confessing all or any of the matters in the plaintiff's petition set forth, doth demur in law to the said petition, and for cause of demurrer shows, that the plaintiff has not by his petition made out such a case as entitles him to relief under the act of Congress of 17th June, 1844, and the acts thereby revived; and for cause of demurrer saith, that in said petition it is not alleged that the original grant, from which plaintiff claims, was made to a party at the date thereof a resident of the province of Louisiana.

Wherefore defendant doth demur to the said petition, and prays the judgment of this honorable court, whether he shall be compelled to answer further or otherwise to the said petition; and he prays to be hence dismissed.

(Signed) THOMAS J. DURANT,
Att'y U. S., for La.

And afterwards, to wit, at the December [term,] 1846, being the 14th day of January, 1847, the following entry was made of record in this case, on the minutes of said court:

JOSEPH HUGHES vs. THE UNITED STATES. } No. 48.

Upon motion of E. Stevens, esq., of counsel for the petitioner in the suit as above entitled, it is ordered that the supplemental petition exhibited

to the court in said suit be filed, and that the same be taken as a part of the original petition, and that a copy thereof be served upon Thos. J. Durant, the district attorney of the United States.

And further, on the same day, the following supplemental petition was filed of record in the clerk's office:

JOSEPH HUGHES
vs.
THE UNITED STATES. } No. 48.

To the hon. district court of the United States, in and for the district of Louisiana.

The supplemental petition of Joseph Hughes, plaintiff in the above entitled suit, respectfully represents:

That André Martin, the grantee mentioned in the original petition filed in this suit, was, at the date of said grant and subsequently, a resident of the province of Louisiana. That said grant was legally made and issued before the 10th day of March, A. D. 1804, by the proper authorities. That the same was protected and secured by the treaty between the United States of America and the French Republic, of the 30th April, 1803, and might and would have been perfected into a complete title under and in conformity with the laws, usages, and customs of the government under which the same originated, had not the sovereignty of the country been transferred to the United States; and that said grant is situated in the State of Louisiana.

Your petitioner further avers that the said grant or order of survey is for three thousand arpents, intead of 3200 arpents, as is stated in the original petition; was valid by laws, ordinances, and usages, and customs of the government under which the same originated; and that the said grant or claim is valid by the laws of nations, by treaty stipulations, by the several acts of Congress in relation thereto, and the principles of equity and justice.

Wherefore your petitioner prays leave to file this his supplemental petition; that it be taken and treated as a part of his original petition; that the United States may be duly cited to answer this supplemental petition, and after due proceedings shall be had, your petitioner prays, as he has already prayed, to be confirmed in his title, and for such other and further relief as justice and equity may demand, &c.

E. STEVENS,
Att'y for petr.

And further, at the same term, to wit, on the 13th day of February, A. D. 1847, the following answer to the supplemental petition and petition was filed of record in the clerk's office:

JOSEPH HUGHES
vs.
THE UNITED STATES. } No. 48.

In the district court of the United States, for the district of Louisiana.

And now comes into the aforesaid district court Thomas J. Durant, attorney of the United States for the district of Louisiana, and for answer to the petition and supplemental petition herein filed by plaintiff, respectfully represents, that the defendants, the United States, deny all and singular the facts and allegations in said petition set forth.

Wherefore they pray that the aforesaid petition may be dismissed, and that the plaintiff be condemned to pay all costs.

(Signed) THOMAS J. DURANT,
Att'y U. S., for La.

And afterwards, at the December term, 1848, being the 5th day of February, 1849, the following waiver was filed of record in the clerk's office:

The demurrer filed on the 18th day of November, 1846, is waived, having been filed through mistake of fact.

(Signed) THOMAS J. DURANT,
Att'y U. S. for La.

And further, at the same term, to wit, on the 9th day of February, 1849, the following replication was filed of record:

Suit No. 48.

In the United States district court for the district of Louisiana, between Joseph Hughes, of the parish of St. Landry, plaintiff, and the United States, defendant.

Joseph Hughes, plaintiff, for replication to the answer filed by the attorney of the United States, in the above entitled suit, respectfully represents:

That this repliant, reserving all exceptions, saith that he doth and will aver, maintain, and prove his said bill or petition to be true and sufficient in law, and that the answer of said defendant is insufficient in law to be replied to; all of which matters this repliant is ready to aver, maintain, and prove, as this honorable court may direct, and humbly prays as in and by his said bill or petition he hath already prayed.

(Signed) JNO. L. DANIEL,
Agent and att'y in fact for Joseph Hughes.

And afterwards, to wit, on the 6th day of March, being at the February term, 1849, the following entry was made of record in this case, on the minutes of the court:

JOSEPH HUGHES
vs. } No. 48.
THE UNITED STATES.

The pleadings in this cause being complete, the same was, by consent of Jno. L. Daniel, esq., on behalf of the plaintiff, and the U. S. at-

torney for the defendants, submitted, on the evidence of record, to the consideration of the court.

And be it remembered, that the evidence of record, and offered this day, on behalf of the plaintiff, is the following:

1°. *Document A, purporting to be the original document on which petitioner's claim is founded.*

Sor. gobernador general de esta provincia: Don André Martin, vecino de este distrito, con todo el respeto debido, ante V. S. me presento y digo: Que deseando formar una vaqueria, y no siendo las tierras que poseo aproposito para este objecto, a V. S. reverendamente suplico se sirva concederme tres mil arpanes de tierra de superficie en el distrito de Attakapas, immediatamente detras de las de Dn. Olivier Thibodeaux, Dn. Théodore Thibodeaux, y Dn. Glaude Martin. Estas tierras que son todas de praderia no tan solamente son à proposito, para el objeto que llevo mencionado, sino que no pueden causar perjuicio a ninguno de los vecinos, por no son utiles para otra cosa.

Espera de V. S. esta gracia, conformandome con las disposiciones del reglamento de concessiones.

Attakapas, y Marzo 28, de 1798.

(Signed) ANDRE MARTIN.

Nueva Orleans, 26 de April, 1798. El agrimensor de esta provincia, ó el particular nombrado, par este establecer à esta pte. sobre los tres mil arpanes de tierra de superficie que solicita en el parage indicado en el memorial antecedente, y que por este decreto se le conceden; y se extenderan a continuacion las diligencias de apeo para proveer al interesado del correspondente titulo en forma.

(Signed) MANUEL GAYOSO DE LEMOS.

English version of the foregoing annexed thereto.

To his excellency the Governor of the province: Mr. André Martin, inhabitant of this district, with all respect to his excellency, says: That desirous to obtain a piece of ground, in order to raise cattle, the one I am in possession of not being good for this object, I *humbre* beg of your excellency to grant me three thousand superficial arpens of land, in the district of Attakapas, back those of Mr. Olivier Thibodeaux, Dn. Theodore Thibodeaux, and Mr. Glaude Martin. These lands, which are all prairies, not only are just good for the object above mentioned, [but will] be of no injury to any of the neighbors; as they are only good for this purpose, I hope your excellency will grant me this favor, being ready to comply with all the regulations of the law of this concession.

Attakapas, March 28th, 1798.

(Signed) ANDRE MARTIN.

New Orleans, 26th April, 1798. The surveyor of this province, or his deputy, will locate the petitioner on the three thousand arpens superficial of land, in the place mentioned in the above memorial, and which

by this decree are granted to him, and the boundaries will be made, in order to provide the interested party with the title of concession in form.

(Signed) MANUEL GAYOSO DE LEMOS.

Notice appended to document A.

To the register and receiver of the land office at Opelousas, Louisiana.

GENTLEMEN: Please take notice, that a claim is hereby filed for three thousand arpens of land, in the district of Attakapas, as in a prairie in the rear of Olivier Thibodeaux, Theodore Thibodeaux, and Glaude Martin, petitioned for to raise cattle by André Martin, and the petition herewith filed, together with a decree, or grant, and an order of survey in favor of the said André Martin, signed by Manuel Gayoso de Lemos, dated New Orleans, the 26th of April, 1798, and registered among the articles of the Spanish government; said claim is hereby filed for record, &c., in virtue of several acts of Congress, giving further time for the adjustment of claims to lands in the State of Louisiana, and the grantee having complied with the conditions of said grant as will be made appear; and therefore pray that the said grant may be recommended for confirmation to the Congress of the United States, for the benefit of the heirs and legal representatives of the said André Martin, deceased.

Respectfully submitted,

(Signed) JNO. N. DANIEL.

Opelousas, Dec. 23d, 1836. *For complainants.*

2°. *Deposition of Antoine Cruzat as to signature to document A.*

JOSEPH HUGHES vs. THE UNITED STATES. } No. 48.

Clerk's office of the U. S. district court, for the district of Louisiana, February 20th, 1847.

The parties representing the plaintiffs and defendants in this cause to-day appeared before me, the undersigned commissioner, and by consent the plaintiffs introduced the following named witness, his testimony to be used on the trial of the said cause.

Antoine Cruzat being duly sworn, states, that the document marked A being shewn to him, he recognises the signature thereto of Manuel Gayoso de Lemos as being the handwriting and the proper signature of the said de Lemos, and the writing immediately above said signature he recognises to be in the handwriting of Charles Tessier.

Cross examination by the district attorney.

Witness is seventy-two years of age; Gayoso was governor of the State of Louisiana from 1797 until his death in 1799. Witness during that time was in Louisiana, and resided in the city of N. Orleans. Governor Gayoso died in the city of N. Orleans. The witness was sub-lieu-

tenant in the regiment of Louisiana during the time Gayoso was governor. This office was a military one altogether; but that, occasionally, the Governor directed the secretary to call in the services of some of the military officers into his (the Governor's) office, for the purpose of dispatching military business; and witness himself was occasionally so employed in the office of the Governor's secretary. The Governor himself was the person who granted lands. Witness has often seen Governor Gayoso sign his name, and that at Natchez he was the Governor's private secretary. Witness does not know that he was in the office of the Governor during the month of April, 1798; does not know that he ever before saw the document marked A, already referred to. Witness states that the decree, the original of such documents as the one marked A, and others, was registered in a book, and a single copy issued. Witness does not know the handwriting of the petition forming part of the document A; states that the handwriting of the body of the decree is that of Charles Tessier, formerly the parish judge of Baton Rouge. Charles Tessier was clerk in the office of the secretary of Governor Gayoso, and Andres Lopez de Armesto was the name of the secretary. Witness was employed in the office at the same time with Tessier, and he is quite certain that the body of the decree is Tessier's handwriting. Laveau Trudeau was surveyor general at that time. Witness does not recollect whether Governor Gayoso died in the latter end of the year 1798, or the beginning of the year 1799.

Signed, A. CRUZAT.

I, N. R. Jennings, duly appointed commissioner to take evidence in land causes, do certify, that the foregoing deposition was reduced by me to writing in the presence of the witness, Antoine Cruzat; that the same was carefully read over to him before signing, and then signed by him in my presence.

February 30th, 1847.

Signed, N. R. JENNINGS, *Comm'r.*

30. *Deposition of André Castille as to signature of André Martin.*

U. S. district court, district of Louisiana, sitting in equity.

JOSEPH HUGHES, vs. THE UNITED STATES. } No. 48.

CLERK'S OFFICE, *December 9th*, 1848.

Be it remembered, that on this day appeared before me, the undersigned, deputy commissioner in land causes, (under rule ninth of said court,) the plaintiff in the above cause, by Jno. L. Daniel, esq., and the defendants, by C. W. Hornor, esq., for the U. S. district attorney, when I proceeded to take down in writing the deposition of André Castille, esq., a witness for said plaintiff; said deposition being given in the French language, and by me faithfully translated into the English tongue, as it hereinafter appears, to wit:

26 3L.

Mr. André Castille, witness for the plaintiff, being duly sworn, and shewn the signature of André Martin, attached to document A, deposes, that said signature is genuine; that he, witness, had frequent relations with the writer, and often saw him write his name; that he knew him from the year 1810, and had personal relations with him from 1816 to 1818. From witness' knowledge of the family, he believes them all to have been native creoles of the country, born at the time of the Spanish sway in Louisiana; that witness himself is of Spanish descent, was born in Spain, but brought up in Louisiana from infancy.

Mr. André Martin was from 55 to 57 years of age when he died, which took place about 16 years ago.

On cross questions by C. W. Horner, esq., on behalf of the U. S., witness deposes that he has no interest in this suit, and no connexion with the family of André Martin, other than that of friendship and neighborly feeling.

Signed, ANDRE CASTILLE.

And now do I certify, that the foregoing is the true and exact deposition of André Castille; that the same was read over to him, and by him signed in my presence.

As here witness my hand and seal, this ninth day of December, A. D. 1848, and of the independence of the Republic the 73d year.

Signed, ROBT. M. LUSHER, [SEAL.]
Deputy commissioner in land causes.

4o. *Deposition of Cyprien Songy as to residence of André Martin, &c.*

U. S. district court, district of Louisiana.

JOSEPH HUGHES vs. THE UNITED STATES. } No. 48.

CLERK'S OFFICE, *January 26th*, 1849.

Be it remembered, that on this 26th day of January, A. D. 1849, before me, the undersigned, deputy clerk of said court, and ex officio deputy commissioner for taking testimony in land causes, appeared the plaintiff in the above cause, by John L. Daniel, esq., the attorney for the defendants also appearing; when, in writing, as follows, the deposition of Cyprien Songy, a witness introduced for the plaintiff, I proceeded to take down, faithfully rendering the same from the French into the English tongue:

Cyprien Songy, a witness for the plaintiff, being duly sworn, states that he was acquainted with André Martin, père, who resided in the Attakapas, and is known by witness to have been a creole of the country. If Mr. André Martin, père, were now alive, he would be upwards of eighty years of age. Witness knows this fact from general reputation, not being himself old enough to affirm personal knowledge of the same. Witness has never known any other man by name [of] André Martin

than his son, now living, who has usually been called André Valrien Martin. Witness is now in his fiftieth year.

Signed, CYPRIEN SONGY.

The foregoing I certify to be the true and exact deposition of Cyprien Songy, a witness for the plaintiff; and I further certify, that the U. S. district attorney being present, no cross questions were addressed to said witness.

Signed, ROBT. M. LUSHER,
Deputy Commissioner.

5o. Sale by heirs of André Martin to Jos. Hughes.

STATE OF LOUISIANA,
Parish of Lafayette.

Be it remembered, that on this fourteenth day of July, anno domini eighteen hundred and forty-eight:

Before me, Auguste Cesar, recorder and ex officio notary public within and for the parish of Lafayette, and in presence of the witnesses hereinafter named and undersigned:

Personally came and appeared André Martin, Amélie Martin, herein assisted and authorized by her husband, Rosémond Dugat, Erminionne Martin, as well in her own right as in the right of Charles Martin, who has this day made a donation to her of even date with this act, and herein assisted and authorized by her husband, Paulin Arceneaux, Miss Adeline Martin, Miss Eminie Martin, Miss Caroline Martin, all of the parish of Lafayette aforesaid, all heirs, and they together being the only heirs and legal representatives of André Martin, senior, late of the parish of Lafayette, deceased, who declared that, for the consideration herein after mentioned, do grant, bargain, and sell, to Joseph Hughes, of the parish of St. Landry, and who is here represented by John L. Daniel, by an act under private signature, dated the ninth of October, 1846, which is hereunto annexed, viz., all their rights, title, interest, and claim to a certain claim or grant of land which was made by the Spanish government to the late André Martin, senior, deceased, and which said tract of land is situated immediately in the rear of and adjacent to the original grant of Claude Martin, Olivier Thibodeaux, and Theodore Thibodeaux, in the parish of Lafayette aforesaid, and which said grant to the said André Martin, senior, is now on file in the United States district court of Louisiana, in the city of New Orleans, in the name and for the use of Joseph Hughes, and which said tract of land contains, according to the calls of the said grant, about three thousand arpents of land, more or less. It is well understood by and between the parties, that the present vendors only sell such rights as they now possess, without any sort of guarantee; and it is further understood between the parties, that André Martin or Charles Martin, or one or both of them, may have, as agent for the present vendors, some ten or twelve years ago, made a certain writing obligatory in his or their names, lent for the rest of the present vendors, in favor of one Christopher Adams,

for a certain portion of the above described tract or grant of land, in case the same should be confirmed by or through the instrumentality of the said Adams, by the Congress of the United States; all of which the said Adams, or his nephew, Christopher Adams, jr., who held the writing obligatory given to the uncle, but in the name of Christopher Adams, jr., have failed to do.

But, nevertheless, the present vendors sell the aforesaid claim or right subject to the legal rights of the said Christopher Adams, jr., if he have any.

And the present vendors sell and transfer, to the said Joseph Hughes, such rights as they have, without any loss of guarantee whatever, to one thousand arpents of land, to be taken off of the front part of a certain claim or grant of land, made under the authority of the Spanish government to the said André Martin, senior, deceased, for three thousand eight hundred arpents more or less of land, situated on the Atchafalaya river, in the parish of St. Landry, about three miles above where the road from Opelousas to Pointe Coupée crosses said river; and for which said last mentioned tract of 1000 arpents of land, the said Hughes has now a suit filed in the United States district court, in the city of New Orleans.

This sale is made without guarantee as aforesaid, and for and in consideration of the personal services of John L. Daniel, which have been rendered in getting the above claim in a situation to be confirmed, and the right of compensation for the said Daniel's services have been transferred to the said Joseph Hughes; and for the further consideration that the said Hughes, in case the first above mentioned claims or grant shall be confirmed, to give to each of the vendors for the part of each heir, one quarter section of land, according to the provisions of the 11th section of the act of Congress, approved on the 26th May, 1826, now revived, under which the above mentioned suits are now pending.

Thus done, passed, and signed at the parish aforesaid, on the day and year first above written, in presence of Dupré Patin and Destiral Arcenaux, competent witnesses, who have hereto signed with the aforesaid parties and me, notary aforesaid, after due reading.

Before signing these presents, it is understood between the parties to this agreement, that in case the last above described tract of land shall be confirmed by the said court or courts of the United States, then, and in that case, the said Hughes is to give a pro rata rate of floats, to wit, a right to locate for all the heirs four hundred arpents together.

ADELINE MARTIN,
ERMIMIE MARTIN,
her
CAROLINE X MARTIN,
mark.
ANDRE MARTIN,
ERNIONNE MARTIN,
PAULIN ARCENAUX,
JNO L. DANIEL
For Joseph Hughes.

JEAN DUPRE PATIN,
DESTIRAL ARCENAUX.

Witnesses to three first vendors,
P. SUSANE,
CHARLES MARTIN.

AUGUSTE CESAR, *Not. pub.*

I do hereby certify that the foregoing is a true copy of the original on file and of record in my office. In witness whereof I have hereunto set my hand and affixed my official seal, at Vermillionville, this seventeenth day of July, A. D. one thousand eight hundred and forty-eight.

[SEAL.] (Signed) AUGUSTE CESAR,
Not. Pub.

Donation annexed to the foregoing sale.

STATE OF LOUISIANA,
Parish of Lafayette.

Be it remembered, that on this thirteenth day of July, anno domini one thousand eight hundred and forty-eight:

Before me, Auguste Cesar, recorder and ex officio notary public in and for the parish of Lafayette, and in presence of the witnesses hereinafter named and undersigned:

Personally appeared Charles Martin, a resident inhabitant of the parish of Lafayette aforesaid, who declared and confessed to have this day given, conveyed, and irrevocably set over, in full property, to Dame Hermione Martin, wife of Paulin Arcenaux, herein assisted and authorized by her said husband, in the acceptation of this said donation, to wit, all the right, title, interest, and demand which the said donor has or may have in and to a certain claim or grant of land, which was made by the Spanish government to the late André Martin, senior, deceased, of whom the said donor is one of the heirs and legal representatives; said land situated immediately in the rear of and adjacent to the original grants of Claude Martin, Olivier Thibodeaux, and Théodore Thibodeaux, and containing about three thousand arpents, superficial measure; also all the right, title, interest, and demand which the said Charles Martin, aforesaid, has or may have on a tract of land of one thousand arpents, to be taken off of the front part of a certain claim or grant of land made by the Spanish government to the said André Martin, senior, for about three thousand eight hundred arpents, situated on the Atchafalaya river, in the parish of St. Landry, about three miles above where the road from Opelousas to Point Coupée crosses the said river.

It is well understood, by and between the parties to the present act of donation, that the said Charles Martin only conveys to the said Hermione Martin such right as he have, if any, without any warranty whatever, as to the title or the quantity of land herein set forth.

The said donation is made in consideration of the friendship, and affection, and esteem which the donor bears towards the donee; the said Charles Martin having full and lawful right to make said donation.

Thus done, passed, and signed at my office, in Vermillionville, on the day and year first above written, in presence of J. Dupré Patin and Destival Arcenaux, competent witnesses, who have hereto set their names with the parties, and me, notary public aforesaid, after due reading.

CHARLES MARTIN,
ERMIONE MARTIN,
PAULIN ARCENAUX,
JEAN DUPRE PATIN,
DESTIVAL ARCENAUX.

Witnesses to the signature of the donor.
P. SUSENA.

AUGUSTE CESAR, *Not. pub.*

I do certify the foregoing to be a true copy of the original on file and of record in my office; in witness whereof I have hereunto set my hand and affixed my official seal at Vermillionville, this seventeenth day of July, A. D. one thousand eight hundred and forty-eight.

[SEAL.] (Signed) AUGUSTE CESAR,
Not. pub.

Deposition of Bernard Marigny, offered in evidence on behalf of defendants.

JOSEPH HUGHES
vs.
The UNITED STATES. } No. 48.

Bernard Marigny, witness for defendants, being duly sworn, deposes and says, that he knew Manuel Gayoso de Lemos; he was governor in the time of the Spanish government, and died in 1799; witness has in his possession a number of letters written by Gayoso de Lemos to his (witness's) father. Being shewn the document A, filed by plaintiff in this suit, he examines the signature of Manuel Gayoso de Lemos attached, and considers it the same as that to the letters above spoken of. He knows the decree to be in the handwriting of Charles Tessier, who was a clerk in the office of the Governor.

(Signed) BERNARD MARIGNY.

Sworn to and subscribed before me, this 6th March, 1849.

(Signed) CHARLES W. HORNOR,
U. S. Comm'r for La.

And further, at the same term, to wit, on the 4th day of April, A. D. 1849, the following deposition was, by consent of parties, filed in evidence in the clerk's office:

JOSEPH HUGHES
vs.
THE UNITED STATES. } No. 48.

U. S. district [court,] for eastern district of Louisiana.

Testimony taken by consent, to be used on the trial of the case.

Henry T. Williams, witness for plaintiff, being duly sworn, deposes

and says, he was surveyor general of the United States for the State of Louisiana; was so from 1834 and 1841, and was previously deputy surveyor for a number of years. The old Spanish claims of Claude Martin, Olivier Thibodeaux, and Theodore Thibodeaux, were northward of the town of Vermillionville; the nearest point less than one mile from the town on the west eide of the bayou Vermillion, principally the prairie.

Cross examined.

He knows the above fact because he surveyed the said claims, and the adjoining lands on the east. He surveyed the claim of Claude Martin either in 1842 or 1843. Witness was not required to know in his official capacity the name of the holder of the claim to be surveyed, but a Mr. Martin was in possession of at least a portion of said claims. Witness was then a deputy surveyor, acting under the instructions of F. D. Newcomb, surveyor general of the U. S. for Louisiana; I kept up a series of surveys of other claims to the eastward, extending to the bayou Téche; one of the old corners corresponded with my measure, that is, the courses and distances, the surveys having been extended from the bayou Téche to one of these claims, witness does not recollect which. There was a large oak tree as the eastern boundary. I do not know it, except from its general connection with other surveys. There was nothing on the old oak tree to designate it as one of the boundaries of Claude Martin's claim; but it had marks as usually are placed upon corner trees. There were many other oak trees on the eastern boundary of that tract. As deputy surveyor, charged with the survey of the district, it became my duty to locate all the claims within that district; I had derived my knowledge of the particular claims to be located from the office of surveyor general and public documents, (that is, State papers.) These three claims, alluded to in my direct examination, had been reported upon by the commissioners and regarded as confirmed claims. I did not survey any claim in the name of Joseph Hughes.

(Signed) H. T. WILLIAMS.

Sworn to and subscribed before me, this fourth day of April, 1849, in the presence of J. L. Daniel, for plaintiff, and T. J. Durant, attorney, U. S., for defendants.

(Signed) CHARLES W. HORNOR,
U. S. Comm'r for Louisiana.

And further, at the same term, to wit, on the 14th day of April, A. D. 1849, the following judgment was entered of record on the minutes of said court:

Judgment.

JOSEPH HUGHES
vs. } No. 48.
THE UNITED STATES.

The court this day rendered its judgment herein in favor of the plaintiff, as follows:

In this case, the law and evidence being in favor of the plaintiff, Joseph Hughes, it is hereby ordered, adjudged, and decreed, that he recover of and from the United States three thousand superficial arpents of land, as prayed for in his petition; which said land was granted on the 26th of April, 1798, by the Spanish authorities, to André Martin, is situated in the district of Attakapas, and was, at the time of the grant, to be in the rear of, and adjacent to, the lands of Olivier Thibodeaux, Theodore Thibodeaux, and Claude Martin.

And it is further ordered and decreed that in case the lands so adjudged to be the property of the petitioner, or any portion thereof, shall have been sold or otherwise disposed of by the United States, then the said Joseph Hughes shall be entitled to locate an equal quantity elsewhere, according to the provisions of the 11th section of the act of Congress, approved on the 26th of May, 1824.

Judgment rendered, April 14th, 1849; judgment signed, April 19th, 1849.

(Signed) THEODORE H. McCALEB. [SEAL.]
U. S. Judge.

And further, at the same term, to wit, on the 19th day of May, A. D. 1849, the following motion and order of appeal was entered of record in this case, on the minutes of said court:

Before the honorable Theodore H. McCaleb.

Be it remembered, that on this nineteenth day of February, in the year one thousand eight hundred and forty-nine, at the February term of this court, comes in his own proper person, Thomas J. Durant, esq., attorney of the United States, for the eastern district of Louisiana, and gives the court here to understand and be informed, that the United States are injured and aggrieved by the judgment of this honorable court rendered against them at this term in the matter of Joseph Hughes versus the United States, and desire to appeal therefrom:

It is thereupon ordered by the court that an appeal be allowed in favor of the said United States from the judgment aforesaid, returnable to the Supreme Court of the United States to the next term thereof after the date of this order.

Finis.

United States of America, eastern district of Louisiana.

I, Needler R. Jennings, clerk of the district court of the United States sitting at New Orleans, in and for said district, do hereby certify, that the foregoing twenty-four folios of manuscript contain and form a true, faithful, correct, and complete transcript of all the proceedings, process, pleadings, documents, and other matters on file and of record in a certain cause in chancery, wherein Joseph Hughes (No. 48) is plaintiff, and the United States of America are defendants, No. 48 of the land docket of said court.